



# CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

## **Brunswick Board of Appeals Minutes February 22, 2007**

**Commission Members Present:** Chair Dawn Page, Secretary Wayne Hawes, and Barbara Baker, Alternate.

**Mayor & Council Present:** None.

**Staff Present:** City P & Z Administrator Rick Stup, Development Review Planner Jeff Love, and City Attorney David Severn.

Chair Page called the meeting to order at 7:00 PM.

**Minutes:**

The minutes for the September 28, 2006 meeting were reviewed and approved, (motion by Mr. Hawes and seconded by Ms. Baker, passed unanimously).

**Chair:** Mr. Stup announced that an e-mail had been received from Ms. O'Brien that stated that she was unable to attend the meeting. He then reviewed the Agenda Package.

**Old Business:** None.

**New Business:**

**Zoning – Variance**

**Approval**

**Request for the Variance from the Height Restriction for accessory to the use and expansion of a Non-Conforming Structure to construct Athletic Field Lights, located on the south side of Cummings Drive, east of Ninth Avenue & Point of Rocks Road (Tax Map 202, Parcel 1675). Zoned OS, BR-BOA-07-01 V**

Chairman swore in those wishing to testify on the case.

**Staff Presentation**

Mr. Stup read the case file into the record.

**Board of Appeals Minutes**  
**February 22, 2007**  
**Page 2 of 4**

Mr. Love presented the Data Sheet (Copy Attached) to include the following requested Variances: Expansion of a Non-conforming Principal Structure; 30' Variance from the Required 40' Maximum Height Restriction for Structures in the Open Space District to construct Athletic Field Lights.

Mr. Love stated that if the Board is considering the approval of some variance, the following conditions should be considered for that approval:

- Is the advertisement submitted for the Height Variance is sufficient to make action on the Expansion of a Non-conforming Structure as well, or if an action on the Expansion of a Non-conforming Structure and the Height Variance be continued until the next Hearing date and all items explicitly advertised.
- The Applicant/Lessee should provide evidence and justify that the fall area of the proposed Light Poles will not substantially impact neighboring properties or structures.
- The Applicant/Lessee must demonstrate to Staff and Planning Commission Approval that adjoining properties will not be adversely impacted by spillover from the proposed Lights.
- Planning Commission review of the Site Plan for compliance and mitigation of the Dark Sky Principle, which is their policy.
- The hours of operation that the lights could be on should be clarified.
- The days and months that the lights could be on must be clarified.
- What events will utilize the lights must be clarified.
- Any items that the BOA wants the Planning Commission to specifically review with the Site Plan.

Under Article 24.3,C, a variance may be granted provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:

1. Strict compliance with the regulations would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome.
2. A lesser variance than that applied for would not provide adequate relief.
3. Granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.

Article 24.3, F:

To Authorize the expansion of, or addition to, a non-conforming principal or accessory building or structure, taking into consideration the nature of the

**Board of Appeals Minutes**  
**February 22, 2007**  
**Page 3 of 4**

neighborhood, the effect of the proposed expansion on nearby property owners, and the power of the Board of Appeals to grant variances from height and setback restrictions in accordance with the applicable sections of this ordinance pertaining to variances. Reasonable conditions may be imposed for the purpose of protecting the public interest.

**Applicant:**

Messers. Keith Tucker and Mike Price, Railroaders Little League (Lessee), presented their case, and provided answers to some of Data Sheet concerns.

They also answered Board questions with regard to the justification for the request and the applications.

**Testimony In Support:** None.

**Testimony In Opposition:** None.

**Additional Relevant Testimony:**

Mr. Severn asked Messers. Tucker and Price several questions to clarify some of the points in their testimony and application.

**Rebuttal:**

Mr. Stup stated that the majority of the testimony given by the Applicant was not presented with the submission of the Variance Requests. He advised that if the Board was considering action on the Variance Requests they should consider adding to the conditions of the action that the Applicant is bound by their testimony.

Mr. Tucker indicated that he wished to provide additional information and exhibits to the Board prior to their action on the Requests due to the questions proposed to them by the Board. He also suggested that some of the concerns brought to his attention by the Board might be answered by visiting a Site in Leesburg, Virginia with similar light fixtures.

**Decision**

Mr. Hawes made a motion to continue the case until the March 22, 2007 meeting for the applicant to submit additional justification information and the Board to visit the example site in Leesburg; Ms. Baker seconded the motion.

**VOTE: Yea 3 Nay 0**

**By-Laws & Procedures**

**Staff presentation of revisions to the By-Laws and Procedures for the Board of Zoning Appeals.**

**Board of Appeals Minutes**  
**February 22, 2007**  
**Page 4 of 4**

Mr. Stup presented the proposed By-Laws revisions stating that they had been reviewed by the Board at the September 28, 2006 meeting and had not been changed from the discussion version.

**Decision**

Ms. Baker made a motion to approve the amended By-Laws; Mr. Hawes seconded the motion.

**VOTE: Yea 3 Nay 0**

**Board Matters:**

Mr. Stup stated that there would be a meeting next month to continue with the Railroaders Little League case. Staff would coordinate the Field Trip to Leesburg and contact the Board.

**Adjournment:**

The meeting was adjourned at: 8:44 PM.

Respectfully submitted,

Dawn J. Page, Chair  
Brunswick Board of Appeals